

**Senate Bill No. 66**

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Passed the Senate September 7, 2005

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*Secretary of the Senate*

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Passed the Assembly July 13, 2005

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2005, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 14556.33 of the Government Code, and to add Sections 188.6, 30952.1, 30952.2, 30952.3, and 30961.1 to the Streets and Highways Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 66, Torlakson. Bay Area state-owned toll bridges: financing.

(1) Existing law specifies the powers and duties of the Department of Transportation, the Metropolitan Transportation Commission, and the Bay Area Toll Authority with respect to the collection and expenditure of toll revenue from the 7 state-owned toll bridges within the geographic jurisdiction of the commission. Existing law provides for a uniform \$3 auto toll on those toll bridges. Under existing law, this toll revenue, other than revenue from a \$1 seismic surcharge, is deposited into the Bay Area Toll Account and is controlled by the authority. Existing law requires the department and the authority to enter into a cooperative agreement that makes the department responsible for operating the bridges and for constructing improvements to the bridges financed by toll revenues. Existing law estimates the cost for seismic retrofit or replacement work on the Bay Area state-owned toll bridges at \$4,637,000,000 and identifies funding to be made available for this purpose from various sources, including imposition of a \$1 seismic surcharge. Under existing law, this surcharge revenue is deposited into the Toll Bridge Seismic Retrofit Account for expenditure by the department until completion of the seismic projects and payment of the bonds issued to finance those projects. Existing law specifies a particular single cable tower suspension replacement design for the eastern portion of the San Francisco-Oakland Bay Bridge. Existing law prescribes a specified formula for paying the maintenance costs of the Bay Area state-owned toll bridges from the State Highway Account and toll revenues.

This bill would state the Legislature's findings that the amount previously identified for seismic retrofit and replacement of the

state-owned toll bridges is insufficient and would identify additional funding sources of \$3,600,000,000 for those projects, including revenues from an additional surcharge to be imposed by the authority, refinancing of existing bridge toll bonds, and various state funds, and would require a schedule to be adopted by the California Transportation Commission for allocation of those state funds. The bill would appropriate \$75 million of specified Motor Vehicle Account funds and \$125 million of other specified funds in that regard.

This bill would modify certain provisions to be enacted by AB 144 of the 2005-06 Regular Session relative to the financing of seismic repair and replacement work on Bay Area state-owned toll bridges. In the event both AB 144 and this bill are chaptered and become operative, the code sections to be added by AB 144 that are modified by this bill would become inoperative and only the modified versions of those code sections contained in this bill would become operative. Because this bill would impose certain duties on the Bay Area Toll Authority, it would thereby impose a state-mandated local program.

(2) Existing law creates the Traffic Congestion Relief Program, funded by certain sales taxes on motor vehicle fuel, and specifies the projects to be funded by that program. Existing law allows a regional or local entity that is the lead applicant for a project to apply to the California Transportation Commission for a letter of no prejudice for the project that allows the entity to spend its own funds on the project with provisions for reimbursement when state funds become available.

This bill would modify these provisions.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 14556.33 of the Government Code is amended to read:

14556.33. (a) A regional or local entity that is a lead applicant agency under Article 5 (commencing with Section 14556.40), may apply to the commission for a letter of no prejudice for the project. If approved by the commission, the letter of no prejudice allows the regional or local entity to expend its own funds for any component of the transportation project.

(b) The amount expended under subdivision (a) shall be reimbursed by the state if all of the following conditions are met:

(1) The project is included in an adopted regional transportation plan.

(2) The department makes an allocation for the project pursuant to Section 14556.20.

(3) The expenditures made by the regional or local entity are eligible for reimbursement in accordance with state and federal laws and procedures. In the event expenditures made by the regional or local entity are determined to be ineligible, the state has no obligation to reimburse those expenditures.

(4) The regional or local entity complies with all legal requirements for the project, including the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) Upon execution of an agreement with the department to transfer reimbursement funds for a project described in subdivision (a), the commission may delay reimbursement pursuant to this section only if cash-management issues prevent immediate repayment.

(d) The commission, in consultation with regional and local entities, and the department, may develop guidelines to implement this section.

(e) Commencing with the 2006-07 fiscal year, the commission shall review and revise its guidelines to assure that lead applicant agencies which have received letters of no prejudice as of June 30, 2005, are reimbursed on an equitable basis that serves the interest of the entire state transportation program, taking into account various factors, including, but not limited to, all of the following:

(1) The impact on allocations for other projects funded under Article 5.

(2) The cash flow requirements necessary for projects in Article 5.

(3) The extent to which the agencies have had to defer other high priority STIP or TCRP projects because of advancing their own funds.

(4) The extent to which reimbursements would be spent on the construction phase of other STIP or TCRP projects.

(5) Any adverse impact on the agency's other high priority projects of postponing reimbursement until project completion as opposed to allowing payment to be made based upon the amount of funds expended on eligible costs for a project, payment to be made upon the documentation of those eligible costs.

(6) The level of commitment made by the agency in expending its own funds for any component of a transportation project under Article 5.

(f) In revising its guidelines pursuant to subdivision (e), the commission shall not increase the maximum percentage of funding allocated for reimbursement under this section beyond the maximum percentage in effect in its guidelines as of June 30, 2005.

SEC. 1.5. Section 188.6 is added to the Streets and Highways Code, to read:

188.6. (a) (1) The Legislature finds and declares that on August 16, 2004, the department reported to the Legislature that the funds identified in Section 188.5 are insufficient to complete the state toll bridge seismic retrofit program, including the replacement of the east span of the San Francisco-Oakland Bay Bridge, due to cost overruns for the program now estimated at three billion six hundred million dollars (\$3,600,000,000).

(2) By enacting this section, it is the intent of the Legislature to identify additional funds from various sources, as described in subdivision (b), in order to fund this shortfall and so that the toll bridge seismic retrofit and replacement program, as described in Section 188.5, as that section read on January 1, 2005, may proceed to completion without further costly delay.

(b) The following amounts from the following funds shall be allocated until expended in order to eliminate the shortfall identified in subdivision (a) and to complete the seismic retrofit

or replacement of state-owned toll bridges as expeditiously as possible:

(1) Not less than two billion one hundred fifty million dollars (\$2,150,000,000) from the Bay Area Toll Account, derived from an additional one dollar (\$1) surcharge on the state-owned toll bridges within the geographic jurisdiction of the Metropolitan Transportation Commission to be effective no sooner than January 1, 2007.

(2) Not less than eight hundred twenty million dollars (\$820,000,000) for the seismic retrofit or replacement of the state-owned toll bridges in the geographic jurisdiction of the Metropolitan Transportation Commission made available through the consolidation of all toll revenues under the management of the Bay Area Toll Authority and from the authorization for the authority to refinance debt secured by toll revenues.

(3) The amount of three hundred million dollars (\$300,000,000) to fund the cost of demolition of the existing east span of the San Francisco-Oakland Bay Bridge from funding sources supporting the state highway operations and protection program, from available state resources from transportation project savings, or from the federal Highway Bridge Replacement and Rehabilitation Program.

(4) The amount of three hundred thirty million dollars (\$330,000,000) from the following accounts:

(A) One hundred thirty million dollars (\$130,000,000) from the State Highway Account from accumulated savings by the department achieved from better efficiency, operational savings, and lower costs.

(B) One hundred twenty-five million dollars (\$125,000,000) of any excess funds that would otherwise have been transferred in the 2006-07 fiscal year pursuant to subparagraph (F) of paragraph (1) of subdivision (a) of Section 7102 of the Revenue and Taxation Code, as amended by Senate Bill 62 or Assembly Bill 127 of the 2005-06 Regular Session, shall instead be transferred to the Bay Area Toll Account and are hereby appropriated to the department for the purposes of this section. If sufficient funds are not available from this source for this purpose during the 2006-07 fiscal year, the funding required under this paragraph shall be made available from additional accumulated savings by the department achieved from better

efficiency, operational savings, or lower costs pursuant to subparagraph (A), or from the federal Highway Bridge Replacement and Rehabilitation Program or the State Highway Account, as determined by the department in consultation with, and with approval of, the California Transportation Commission.

(C) Seventy-five million dollars (\$75,000,000) from the fund reserve in the Motor Vehicle Account for the 2005-06 fiscal year which is hereby appropriated.

(c) If the amount of the overruns estimated by the department, as described in subdivision (a), is less than three billion six hundred million dollars (\$3,600,000,000), the savings shall be shared between the state and the authority in the same proportion as their proportional contribution to the estimated cost overruns, as provided in paragraphs (1), (3), and (4) of subdivision (b).

(d) If the actual amount of the overruns exceeds the amount estimated by the department, as described in subdivision (a), the authority shall utilize funds generated under the powers granted to it in Sections 30886, 30950.2, 30954, 30961, and 31011 by the act adding this section in the 2005-06 Regular Session to provide additional financial resources to complete the state toll bridge seismic retrofit program.

(e) Funds made available under this section and Section 188.5 for the replacement of the east span of the San Francisco-Oakland Bay Bridge shall only be expended for the structure described in paragraph (9) of subdivision (b) of Section 188.5 as that section read on January 1, 2005.

SEC. 2. Section 30952.1 is added to the Streets and Highways Code, to read:

30952.1. (a) The authority and the department shall establish a Toll Bridge Program Oversight Committee, which shall consist of the director, the authority's executive director, and the Executive Director of the California Transportation Commission. The committee may establish a project management team to assist it in performing the duties required of it under this section and Section 30952.05.

(b) The Toll Bridge Program Oversight Committee shall review project status, program costs, and schedules; resolve project issues; evaluate project changes; develop and regularly update cost estimates, risk assessments, and cashflow

requirements for all phases of the toll bridge projects; and provide program direction.

(c) In addition to the duties described in subdivision (b), the committee shall review project staffing levels and structures, and consultant and contractor services related to the Benicia-Martinez Bridge construction project, as described in Section 30917, and the state toll bridge seismic retrofit program, as described in Section 188.5.

(d) Expenses incurred by the department, the authority, and the California Transportation Commission for costs directly related to duties required by this section, Section 30952, and Section 30952.05 shall be reimbursed by toll revenue collected pursuant to Section 30916, 31010, or 31011.

(e) The Toll Bridge Program Oversight Committee is not a state body as that term is defined in Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code or a local agency as that term is defined in the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 3. Section 30952.2 is added to the Streets and Highways Code, to read:

30952.2. (a) The department shall provide monthly reports to the Toll Bridge Program Oversight Committee, including, but not limited to, the construction status, actual expenditures, and forecasted costs and schedules for the Benicia-Martinez Bridge construction project and the state toll bridge seismic retrofit program projects.

(b) (1) Commencing August 15, 2005, and quarterly thereafter until completion of all applicable projects, the Toll Bridge Program Oversight Committee shall provide quarterly reports within 45 days of the end of each quarter to the transportation and fiscal committees of both houses of the Legislature and the California Transportation Commission for the toll bridge seismic retrofit program in subdivision (a) of Section 188.5.

(2) The report shall include details of each toll bridge seismic retrofit project and all information necessary to clearly describe the status of the project, including, but not limited to, all of the following:



(A) A progress report.

(B) The baseline budget for capital and capital outlay support costs for the revised program cost estimate, as described in Section 188.6.

(C) The current or projected budget for capital and capital outlay support costs.

(D) Expenditures to date for capital and capital outlay support costs.

(E) A comparison of the current or projected schedule and the baseline schedule that was assumed.

(F) A summary of milestones achieved during the quarterly period and any issues identified and actions taken to address those issues.

(G) A summary of the expenses incurred by the Toll Bridge Program Oversight Committee to perform the duties required by Sections 30952.05 and 30952.1.

(H) A summary of the incentives, disincentives, and criteria for each utilized by the department, and the expenses incurred by the department, pursuant to Section 30952.3.

(3) The report described in paragraph (1) shall also include a programwide summary of the program's budget status for capital and capital outlay support costs.

SEC. 4. Section 30952.3 is added to the Streets and Highways Code, to read:

30952.3. Notwithstanding any other provision of law, the department may, from the resources provided in, and for the purpose of, Sections 188.5 and 188.6, include incentives or disincentives, or both, to maximize the number of bidders participating in a bid process relative to toll bridge seismic retrofit and replacement projects, and to encourage the timely and thorough completion of contracts awarded for those projects.

SEC. 5. Section 30961.1 is added to the Streets and Highways Code, to read:

30961.1. Not later than December 31, 2005, the California Transportation Commission, in consultation with the department and the authority, shall adopt a schedule for the payment of the remaining state contributions identified in Sections 188.5 and 188.6 for the toll bridge seismic retrofit and replacement projects identified in Section 188.5. The schedule shall include the timing and sources of the state contributions to the state toll bridge

seismic retrofit and replacement program. The schedule shall provide for the state contributions to be made available for expenditure commencing in the fiscal year 2005-06, and in a manner that distributes the state contributions over the years during which construction of the toll bridge seismic retrofit and replacement program occurs, ensures that the state contributions provide a timely balance between those sources and the contribution from toll revenues, and, to the extent possible, minimizes the impact on state transportation programs. The schedule shall include and make available for expenditure, the state contribution identified in subparagraph (B) of paragraph (8) of subdivision (b) of Section 188.5 commencing in fiscal year 2008-09, and shall distribute it over that fiscal year and each of the fiscal years during which construction of the state toll bridge seismic retrofit and replacement program occurs. The California Transportation Commission, in consultation with the department and the authority, may update and revise the schedule as it determines is necessary.

SEC. 6. If Assembly Bill No. 144 of the 2005-06 Regular Session is also enacted and becomes operative, Sections 3, 8, 9, 10, and 14 of that act shall become inoperative upon the enactment of this act.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide financing necessary to complete the state-owned toll bridge seismic retrofit and replacement program as quickly as possible, it is necessary that this act take effect immediately.











Approved \_\_\_\_\_, 2005

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*Governor*